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COMMISSION ON HUMAN RIGHTS

Forty-seventh session

SUMMARY RECORD OF THE 56th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 8 March 1991, at 3 p.m.

Chairman: Mr. BERNALES BALLESTEROS (Peru)

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The meeting was called to order at 4.30 p.m.

GREETINGS ON THE OCCASION OF INTERNATIONAL WOMEN'S DAY

1. The CHAIRMAN, speaking on behalf of the Commission, conveyed its greetings and congratulations, on the occasion of International Women's Day, to all women members, observers and Secretariat personnel, and to all women throughout the world. He conveyed a special greeting to Mrs. Quisumbing, of the Philippines, whose work on behalf of the Commission, including presiding over its forty-sixth session, symbolized the contribution made by women to international progress, in general, and to the cause of human rights, in particular. The Commission wished success to all women in their endeavours.

FINANCIAL IMPLICATIONS OF COMMISSION RESOLUTIONS AND DECISIONS

2. Mr. PACE (Secretary of the Commission) said that, in the course of the current session, the Secretariat had drawn the Commission's attention, in accordance with rule 28 of the rules of procedure, to the budgetary implications of certain draft resolutions tabled for adoption. He had been asked, however, to draw members' attention to a general consideration applicable to all such financial and budgetary implications, in order to ensure that the Commission understood the manner in which they would be implemented in the context of the appropriate administrative and budgetary bodies.

3. The approach essentially concerned the new budgetary process which had begun with the biennium 1990/91, resulting from General Assembly resolution 42/213. Under that process, outlined in the annexes to General Assembly resolutions 41/213 and 42/211, expenditures derived from legislative mandates not provided for in the proposed programme budget might be accommodated within a contingency fund which, for the current biennium, was established at $US 15 million. Under the same procedure, if additional expenditures were proposed which exceeded the resources available from the contingency fund, such activities could be implemented only through the redeployment of resources from low-priority areas or the modification of projected activities; should such adjustment be impractical, any additional activities would have to be deferred until a later biennium.

4. In the case of administrative and programme budget implications of resolutions which the Commission recommended for adoption by the Economic and Social Council, it would be clearly indicated whether the activities were deemed new ones or perennial ones of a recurrent nature but subject to an annual renewal of mandate. The requisite resources for perennial activities were normally provided from the Commission's regular budget, under the terms of the Council's mandate.

5. For a new activity, however, the required resources, if available, could be provided from the contingency fund. Decisions as to whether such resolutions could be implemented from existing resources, through modification of existing activities, by termination or postponement of low-priority activities, or from the contingency fund, would have to be taken at the Council level.

6. Should it prove impossible to finance any proposed additional activities from the contingency fund, or to identify activities for modification, termination or postponement, implementation of the additional activities would have to be deferred until a later biennium.

DRAFT PROVISIONAL AGENDA FOR THE FORTY-EIGHTH SESSION OF THE COMMISSION (agenda item 26) (E/CN.4/1991/L.1 and L.69)

7. The CHAIRMAN suggested, in response to a request by Mr. SENE (Senegal), that the Commission should defer taking note of the draft provisional agenda for its forty-eighth session (E/CN.4/1991/L.1) until the text was available in all the working languages, and that he should first invite the sponsors of the guidelines for a revised provisional agenda of the forty-ninth session to introduce the text contained in document E/CN.4/1991/L.69.

8. It was so decided.

9. Mr. BOSSUYT (Belgium), introducing document E/CN.4/1991/L.69, said that the text, which was of a procedural nature, was aimed at promoting a more rational arrangement of the Commission's agendas, which had developed somewhat haphazardly over the years. Following a lengthy discussion during the Commission's previous session, there had been a broad consensus of support, in principle, for a more coherent framework. For various reasons, however, no text had been submitted at that time.

10. The details contained in the annex to the text were intended only as guidelines, implying no final decision, and it was, of course, understood that any decision taken, even at the next session, could not be binding on the Commission at its forty-ninth session; nor could any detailed agenda be set forth without the Secretariat's assistance. The sponsors felt, however, that a step-by-step approach could be adopted.

11. As a first step, the Secretary-General would be requested to submit, in consultation with the Bureau during the Commission's forty-eighth session, a revised draft provisional agenda for the forty-ninth session, on the lines indicated in the annex to document E/CN.4/1991/L.69. No final decision, therefore, would be taken before the beginning of the forty-ninth session.

12. The guidelines in no way prejudged the organization of work at the beginning of each session or any decisions regarding priority or clustering of or the length of debate on agenda items. Moreover, he wished to stress that the headings in the proposed guidelines did not imply any set categories of items - for example, that consideration of the situation relating to migrant workers should necessarily be viewed as standard-setting. The sponsors felt that adoption of the text would pave the way to making the Commission's future agendas more coherent.

13. Mr. SENE (Senegal) said that, in his delegation's view, the guidelines proposed in document E/CN.4/1991/L.69 reflected a genuine concern and a praiseworthy effort to improve the Commission's work.

14. Mr. WANG Xuexian (China) said that his delegation, although it appreciated the sponsors' efforts, felt that more time was needed for study and discussion of the proposed guidelines, including consideration by Governments. It therefore proposed that a decision on the text should be deferred.

15. The CHAIRMAN said that the formal proposal just made would require a procedural debate.

16. Mr. HELLER (Mexico) said that his delegation saw no need for a procedural debate on the guidelines in question, which in any case would not bind the Commission in respect of future agendas.

17. Mr. BOSSUYT (Belgium) said that the Chinese delegation's proposal had, perhaps, stemmed from a misunderstanding. The proposed guidelines implied no decision relating to the Commission's agenda for its forty-ninth session; any decision in that regard would be taken at the forty-eighth session. The purpose was to enable the Secretariat to begin work on the basis of a general framework.

18. The Chinese delegation had itself participated, at the previous session, in the discussions he had mentioned; the sponsors had hoped not to let another session pass without any further step being taken, and they urged the Chinese delegation not to insist on its proposal.

19. Mr. ALFONSO MARTINEZ (Cuba) said that his delegation felt that there was no need for the current observations to be deemed a procedural debate; it endorsed the appeal to the Chinese delegation not to insist on its proposal.

20. Mr. WANG Xuexian (China) withdrew his delegation's proposal.

21. The CHAIRMAN said that, accordingly, he invited the Commission to consider the substance of the proposals contained in document E/CN.4/1991/L.69.

22. Mr. ALFONSO MARTINEZ (Cuba) said that his delegation welcomed the initiative to rationalize the Commission's agendas. At the forty-sixth session, there had indeed been some discussion of the topic, but it had been limited in respect of time and participation. His delegation would, therefore, like some clarification of the proposed guidelines.

23. To begin with, his delegation wondered what the category groupings of the agenda items might imply for the agendas of future sessions, and how it was intended that, at the forthcoming session, Commission members and the Secretariat would hold consultations in order to give the provisional guidelines a definitive form. One seeming difficulty in that regard was that, in the normal way, any such discussion could take place only on the final day of a session; indeed, for that reason his delegation doubted the wisdom of trying to take any action at the current meeting.

24. Among the matters which required further clarification were the reasons why, for example, the sponsors had included the issue of racism in the category on situations, rather than in that of issues, and why the first item in the proposed standard-setting category included topics regarding which, with the exception of principles relating to mental illness, standards already existed.

25. His delegation therefore suggested - without making a formal proposal - that the Commission should, at its current meeting, take note of document E/CN.4/1991/L.69 in order that, before the next session, the proposed guidelines could be studied and commented upon by Governments and by

intergovernmental and non-governmental organizations, with a view to the adoption of a formal decision at the Commission's forty-eighth session. Since, moreover, the latter would be attended by an increased membership, it would be as well to refrain from any action which might be seen as forcing the hand of the new members.

26. Mr. HELLER (Mexico) said his delegation thought it unwise to enter into discussions at such a late stage, and felt that the Commission should simply take note of the text.

27. Mr. RECHETOV (Union of Soviet Socialist Republics) said he agreed with the representative of Mexico. It should suffice to bear in mind the spirit of the proposed guidelines, whatever shortcomings they might have, and simply take note of them.

28. Mr. BOSSUYT (Belgium) said that, in drafting the guidelines for a provisional agenda, it was essential to take into account the actual practice of the Commission. The items and sub-items in the guidelines were not static and it would be for the Commission to decide at a later stage on the most appropriate way to take up any individual item or sub-item.

29. To take into account the comments that had been made and after consultation with the various delegations, he suggested the following revision of the guidelines (E/CN.4/1991/L.69). The last part of the sentence, on page 1, beginning with the words "requests the Secretary-General", in the sixth line, would be deleted and replaced by the following text:

> "1. Takes note of the guidelines for a revised provisional agenda annexed;
>
> 2. Requests the Secretary-General to prepare a working document containing a draft provisional agenda for the forty-ninth session prepared on the basis of those guidelines for discussion during the forty-eighth session;
>
> 3. Requests the Bureau of the forty-eighth session of the Commission to propose to the Commission the ways in which the said discussion will take place."

30. The text, as revised, would ensure that the Commission would have a working document at its disposal the following year so that a full discussion could take place, if necessary, at its next session. He stressed that the Commission was not being asked to take a final decision on the provisional agenda for its forty-ninth session. That decision would be taken at the beginning of the forty-ninth session. He hoped that, in the circumstances, the draft resolution would be adopted without a vote.

31. Draft resolution E/CN.4/1991/L.69, as orally revised, was adopted without a vote.

32. Mr. SENE (Senegal) said that, while his delegation welcomed the consensus reached on the draft resolution just adopted and the endeavour to rationalize the Commission's work, it thought that reference should be made to the problem of documentation, especially with regard to the draft reports, and the need to avoid delays in distribution.

33. The CHAIRMAN said he had received a draft decision from the regional groups entitled "Organization of the work of the forty-eighth session". The text of the draft decision in question which was similar to those adopted at past sessions of the Commission, was the following:

"DRAFT DECISION

1991/... Organization of the work of the forty-eighth session

At its 56th meeting, on 8 March 1991, the Commission, taking into account its heavy schedule of work and that of its sessional working groups as well as the need to give adequate consideration to all the items on the agenda, and recalling that in previous years the Economic and Social Council had approved the Commission request for additional meetings for its thirty-seventh to forty-seventh sessions, decided, without a vote: (a) to recommend to the Economic and Social Council that it authorize, if possible within existing financial resources, 40 fully-serviced additional meetings, including summary records, in accordance with rules 29 and 31 of the rules of procedure of the functional commissions of the Council, for the Commission's forty-eighth session; and (b) to request the Chairman of the Commission at its forty-eighth session to make every effort to organize the work of the session within the normal allotted time, the additional meetings that the Economic and Social Council might authorize to be utilized only if such meetings proved to be absolutely necessary.".

34. Mr. PACE (Secretary of the Commission) said that the estimated cost of providing conference services for the 40 additional meetings was $US 491,400.

35. The draft decision, as read out, was adopted without a vote.

36. The CHAIRMAN invited the Commission to consider the draft provisional agenda for its forty-eighth session (E/CN.4/1991/L.1).

37. Mr. ABRAM (United States of America) said he wished to assure the Commission that his remarks were not intended as an expression of his delegation's dissatisfaction with the results of the current session, which had been a very productive one. However, some changes would have to be made to the Commission's work methods if it wished to retain its credibility as the world's principal fact-finding instrument for international human rights.

38. The current agenda of the Commission reflected the progress made in enforcing the Covenants it had drafted and in drawing attention to violations of them. Whereas previously country-specific scrutiny of human rights violations had simply been was off limits, it had come to be almost universally accepted that the Commission could consider, comment upon and condemn specific human rights abuses.

39. Standard-setting was almost complete and compliance with United Nations instruments should be the current measure of the Commission's usefulness. That required persistent demands for public accountability. If it was to maintain its credibility, the Commission had to ensure that its deliberations were impartial, non-selective and reflective of current human rights priorities.

40. The agenda, for example, should be more universal in its contemplation of violations and violators and the allocation of the Commission's time. One third of the current session had been allocated to two items, the Israeli-occupied territories and South Africa, while whole regions and continents were exempt from public scrutiny. Torture, which was currently a worldwide problem, had been allocated only two days of discussion. The formidable refugee problem, involving millions of human beings, had been excluded from the Commission's agenda.

41. Issues which should have been at the heart of the agenda were excluded from careful deliberation. Discussion of country-specific situations had been cursory. Important deliberations on country violations had been conducted behind closed doors, thus undermining the powerful weapon of public persuasion.

42. On the other hand, topics of doubtful relevance to the essential business of the Commission had been allowed to consume its time. Matters such as development, the environment, toxic waste and foreign debt were undoubtedly important but should be discussed in the competent United Nations bodies.

43. The Commission should be more disciplined, make better use of its time and give important topics the attention they deserved. It could begin by starting its meetings on time. The Chairman should enforce the time-limit on speeches and the Commission should set an example by establishing and applying its own rules impartially.

44. The Commission's credibility was harmed by regional voting blocs in which countries closed their ranks, not to advance human rights but to prevent any investigation of individual States' human rights abuses. That practice had grown worse over the years. There was also a growing tendency to regard consensus as the goal of deliberation rather than as a useful tool for finding common ground. It should not substitute for the pristine articulation of human rights principles or operate in such a way as to undermine the moral force of the majority and harm the Commission's credibility.

45. The Member States ought to be more mindful of the composition of the Commission. If the Commission on Human Rights was to call nations to account, its own members should exemplify the respect for human rights that it sought to achieve. It was degrading that Commission members should include perpetrators of some of the most serious, persistent and well-documented human rights violations.

46. The changes he suggested were necessary if the Commission was to set the standard and the example in respect of human rights. It should be the leader in defending the oppressed who could not speak for themselves, in challenging the oppressors and in giving hope to those who were suffering for their beliefs.

47. The CHAIRMAN said that, if he heard no objection, he would assume that the Commission wished to take note of the draft provisional agenda for its forty-eighth session (E/CN.4/1991/L.1).

48. It was so decided.

REPORT TO THE ECONOMIC AND SOCIAL COUNCIL ON THE FORTY-SEVENTH SESSION OF THE COMMISSION (agenda item 27) (E/CN.4/1991/L.10 and Addenda and E/CN.4/1991/L.11 and Addenda)

49. Mr. TAUCHI (Japan), Rapporteur, introducing the draft report, said that it provided a purely factual account of the Commission's proceedings at its current session.

50. There were no major revisions to be made to chapter II of the report (E/CN.4/1991/L.11 and Addenda).

51. In chapter VII (E/CN.4/1991/L.10/Add.7), the following new paragraph 25 should be inserted: "An estimate of the administrative and programme budget implications of draft resolution E/CN.4/1991/L.18/Rev.1 is contained in Annex III". Subsequent paragraphs would be renumbered accordingly.

52. In chapter XIV (E/CN.4/1991/L.10/Add.14), the following new paragraph 18 was to be inserted: "The representative of Yugoslavia revised operative paragraph 2 by replacing the words 'its deliberations' by the words 'any conclusions'". Subsequent paragraphs would be renumbered accordingly. In the original paragraph 28, the names of Ethiopia, Germany and Sweden were to be deleted.

53. In chapter XVI (E/CN.4/1991/L.10/Add.16), the following new paragraph 6 should be inserted: "A statement equivalent to the right of reply was made by the Observer for the Syrian Arab Republic".

54. In chapter XVIII (E/CN.4/1991/L.10/Add.18), the existing paragraph 10 was to be replaced by the following text: "The representative of the United States, who had requested a roll-call vote on draft resolution E/CN.4/1991/L.13, subsequently withdrew his request".

55. Mr. COOK (United States of America) said that he wished to draw attention to a small typographical error on page 5 of document E/CN.4/1991/L.11/Add.5. In the third line of operative paragraph 4, the word "contact" should be "contacts".

56. Mr. DAYAL (India) requested the Rapporteur to include his country's name in paragraph 3 of document E/CN.4/1991/L.10/Add.16 since his delegation had addressed the Commission on agenda item 16.

57. Mr. GOMPERTZ (France), noting that a number of documents were not available in all the working languages, said that his delegation wished to make it clear that it would not be able formally to adopt the various documents until it had received them in its own language.

58. Mrs. SANTOS PAIS (Portugal) requested the Rapporteur to take note of two sentences in which the position of her delegation was not correctly reflected. Paragraph 21 of document E/CN.4/1991/L.10/Add.7, did not accurately reflect what had taken place and her delegation would submit an appropriate text to the Rapporteur. In the case of document E/CN.4/1991/L.10/Add.19, she requested the Rapporteur to include a reference, between paragraphs 35 and 36, to the debate which had taken place on the substance during the session and during which her delegation had also spoken.

59. Mr. BARKER (Australia) said, with reference to document E/CN.4/1991/L.11/Add.3, that it had been agreed in the Working Group which had prepared the resolution on the World Conference that in operative paragraphs 5 and 6, the word "Chairperson" would be used instead of "Chairman" or "Chairmen". He requested the Rapporteur to ensure that the necessary corrections were made in the text.

60. Referring to document E/CN.4/1991/L.10/Add.8, he recalled that his delegation had spoken on agenda item 18 at the 20th meeting. He therefore requested that the name of Australia should be inserted in paragraph 3 with the ordinal number "20th" placed in brackets after its name.

61. Mr. RONQUIST (Sweden) said that, while it was true as the Rapporteur had said that his delegation's name should be deleted from the original paragraph 28 of document E/CN.4/1991/L.10/Add.14, his delegation had given an explanation of vote on the draft resolution referred to in paragraph 20 of the same document. Consequently, a new paragraph 22 should be included to read: "A statement in explanation of vote after the vote was made by the delegation of Sweden". It was his impression that the delegation of Germany had also given an explanation of vote on the same draft resolution.

62. Mrs. QUISUMBING (Philippines) said that she wished to confirm the observation made by the representative of Australia regarding the replacement of the word "Chairman" by the word "Chairperson". The Group had agreed on that change on the basis of a recommendation by the United States delegation and she acknowledged that delegation's contribution to International Women's Day.

63. Mr. ALFONSO MARTINEZ (Cuba) said that, in paragraph 23 of document E/CN.4/1991/L.10/Add.4 and in paragraph 12 of document E/CN.4/1991/L.10/Add.7, the Spanish texts referred to roll-call votes. Since roll-call votes had not been taken on the draft resolutions in question, he hoped that the Spanish version would be aligned with the original English.

64. In the case of document E/CN.4/1991/L.10/Add.15, he drew attention to the Spanish text of paragraph 9 which stated that the representative of Germany had requested a separate roll-call vote on operative paragraphs 9, 10, 14 and 15 of the draft resolution, whereas it should have stated that the representative had requested a separate roll-call vote on the 6th, 7th, 9th, 12th and 13th preambular paragraphs and operative paragraphs 9, 10, 14 and 15 of the draft resolution. There again, the Spanish text should be brought into line with the original English.

65. The CHAIRMAN said that, if he heard no objection, he would take it that the Commission wished to adopt the draft report on the work of its forty-seventh session (E/CN.4/1991/L.10 and Addenda and E/CN.4/1991/L.11 and Addenda), as orally revised and amended.

66. It was so decided.

67. Mr. CROOK (United States of America) said that he had understood from the Rapporteur that delegations would be allowed until the following Friday to submit their comments on the draft report in writing. He assumed that that right had not been affected by the decision just taken.

68. The CHAIRMAN confirmed that the assumption by the representative of the United States was correct.

CLOSURE OF THE SESSION

69. The CHAIRMAN said that the current session of the Commission, which had begun under the shadow of war, was ending with the restoration of peace in the Gulf and the prospect of a joint international effort to bring about reconstruction and justice throughout the Middle East.

70. Peace and respect for international law were the pillars of any kind of social and political co-existence which adhered to the values of a philosophy based on human rights. A new international system was emerging, but it was too early to say what ultimate form it would take. There were certainly some positive trends: the universal ideal of a democratic way of organizing society had been revived, and there was a new trend towards freedom, justice and respect for the right to self-determination of peoples.

71. Human rights had assumed a new importance as the criterion by which any claims to political and social legitimacy were judged. Although the 1980s had been a lost decade for most developing countries from an economic and social point of view, there had been major advances in the democratization of political decision-making and the protection of fundamental rights and freedoms, which had made it, beyond a shadow of doubt, the decade of human rights.

72. The achievements of the Commission over the previous decade had been due, in large part, to the growing influence of bodies other than the State, and especially to the activities of non-governmental organizations, whose active commitment to human rights bore witness to the importance of that ideal in the modern world. The conscience of the world's peoples would no longer tolerate racial discrimination, arbitrary detention, torture and other abuses of power.

73. The conscience of the world's peoples would no longer tolerate the death of 300,000 children every day, because their own societies and the international community could not guarantee their economic and social rights. A child's right to life was the least well protected of all human rights in the modern world.

74. There had been many notable advances in the human rights field since the Commission's last session. The apartheid system, which the world had fought for so many years, with the loss of so many lives, finally seemed to be in retreat. The Commission had noted with satisfaction the many reforms in South Africa, but it had nevertheless recommended that economic sanctions should be maintained until apartheid had been completely abolished. The Commission had also adopted by consensus a number of resolutions reaffirming its strong and unequivocal condemnation of racism in any form.

75. Among the resolutions adopted by the Commission, he wished to make particular mention of the resolution on arbitrary detention (E/CN.4/1991/L.77). For the first time, the United Nations would have a specific mechanism to investigate the human rights violations which often took place during that kind of detention and which had, in the past, been carried out with complete

impunity. Arbitrary detention was a problem all over the world, and he was sure that the resolution, which had been approved by consensus, would have a real effect on the enjoyment of human rights in the world.

76. The Commission's decision to establish an inter-sessional working group on the draft declaration on the protection of all persons from enforced or involuntary disappearances would also help to improve the tools available to the international community for the protection of human rights. He hoped that the Commission would be able to adopt that draft declaration at its next session.

77. The Commission had also adopted a number of valuable resolutions on the situation of human rights in individual countries.

78. The Commission had continued its work to reaffirm the indivisibility of individual rights and economic and social rights. No one could deny that a decision by the international financial system which forced a developing country to reduce its health and nutrition budgets, without providing alternative sources of finance, would drastically reduce that country's capacity to promote basic human rights such as the right to adequate food or the right to health, which were synonymous with the right to life.

79. Governments should not adopt resolutions emphasizing the importance of human rights within the Commission, and then take decisions in the field of the economic and financial relations between the North and the South which were detrimental to human rights. That was the moral message of the Commission's resolution on the effects on the full enjoyment of human rights of the economic adjustment policies arising from foreign debt (E/CN.4/1991/L.14).

80. The legal doctrine of human rights was based on a balanced and harmonious relationship between the State and society. However, new social and criminal phenomena had emerged which had a harmful effect on both society and the State; namely, drug trafficking and terrorism, which were forms of organized violence which violated human rights in themselves and created the conditions for violations by the State. For that reason, the Commission's resolution on the consequences on the enjoyment of human rights of acts of violence committed by armed groups that spread terror among the population and by drug traffickers (E/CN.4/1991/L.44) was an important development, particularly since it had been adopted by consensus.

81. He wished to thank the Commission for its co-operation in the long and arduous process of consultation and negotiation. Of the 82 resolutions adopted by the Commission, 75 - or 91.4 per cent - had been adopted by consensus. That was a tendency which augured well for the future. There were a number of priority areas which deserved the Commission's special attention in the immediate future. The Commission's thematic work, dealing with the common struggle against torture, enforced disappearances, summary execution and arbitrary detention all over the world, was one such area. The preparatory work for the World Conference on Human Rights in 1993 was another.

82. Six weeks of consideration and decision-making in the field of human rights were coming to an end. Some of the Commission's decisions would have a direct impact on the lives of hundreds of thousands of people throughout the world, particularly those who were suffering from existing violations of human rights. They could not, therefore, be called abstract by any means.

83. Most of the Commission's decisions, however, would not extend beyond the corridors of the Palais des Nations. The Commission was suffering from a failure to communicate with society at large, which it must work to overcome. It was essential to pursue that aim with commitment and without excessive bureaucracy. The Commission must help to educate future generations about the importance of human rights, appeal to people's consciences, mobilize society and increase the awareness of Governments.

84. After an exchange of courtesies, the CHAIRMAN declared the session closed.

The meeting rose at 7.20 p.m.